HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 992 OF 2005

Ahmed Jamal Mansoori. ..Appellant.

Versus.

The Municipal Corp. of Gr. Bombay...Respondents.

Shri. Girish S. Godbole with Shri. S. K. Chaurasia for the Appellant.

Smt. Geetanjali Joglekar for the respondents.

CORAM: DR.D.Y. CHANDRACHUD J.

DATE : DECEMBER 6, 2005.

P.C.

1. On the request of the learned Advocate Smt. Rekha P. Safari, she is permitted to be discharged in the proceeding. Shri. S. K. Chaurasiya has instructions to appear in the matter and undertakes to file his Vakalatnama during the course of the day.

2. The City Civil Court declined to grant an interim injunction restraining the Municipal Corporation from taking action in respect of an unauthorised structure. A notice under section 351 of Mumbai Municipal Corporation Act, 1888 was issued in respect of the unauthorised construction of a shed with a wooden loft and brick masonry wall at premises known as "A-1 Garage, Near Amrit Diamond, Tata Road No.1, Opera House,

Mumbai - 400 004". The appellant has at the hearing of this appeal relied on only one document and, that is an Assessment Extract. The Assessment Extract is at Exhibit-"J/2" to the compilation. This Letter dated 12th September, 2005 is of the assessment of a property bearing Ward No.: D-186 (3C), situated at 82C - 84C, Tata Road NO.1. The first date of assessment is 1st April 2003. Thus, it is clear that there is no merit in the contention of the appellant that the property has been in existence since the datum line of 1st April 1962. The second letter is not in respect of the suit property but of a property at Raja Ram Mohan Roy Road. There is nothing to show that the structure is authorised. The Municipal Corporation filed a detailed reply before the trial Court explaining its position that the structure is unauthorised.

3. In the circumstances, the order of the learned trial Judge declining an interim injunction does not call for interference. In the result, the Appeal from Order is dismissed.

(DR. D.Y. CHANDRACHUD J.)